# STATE OF NEW YORK

9401

# IN SENATE

May 15, 2024

Introduced by Sens. HINCHEY, GONZALEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the labor law, in relation to requiring certain businesses to conduct artificial intelligence impact assessments; and to amend the tax law, in relation to establishing a surcharge on certain corporations that use artificial intelligence or data mining or have greater than fifteen employees displaced by artificial intelligence

**The People of the State of New York, represented in Senate and Assembly, do enact as follows:**

Section 1. Short title. This act shall be known and may be cited as the "New York workforce stabilization act".

§ 2. The labor law is amended by adding a new section 201-j to read as follows:

**§ 201-j. Artificial intelligence impact assessments. 1. No employer shall utilize or apply any artificial intelligence unless the employer, or an entity acting on behalf of such employer, shall have conducted an impact assessment for the application and use of such artificial intelligence. Following the first impact assessment, an impact assessment shall be conducted at least once every two years. An impact assessment shall be conducted prior to any material change to the artificial intelligence that may change the outcome or effect of such system. Such impact assessments shall include:**

**(a) a description of the objectives of the artificial intelligence;**

**(b) an evaluation of the ability of the artificial intelligence to achieve its stated objectives;**

**(c) a description and evaluation of the objectives and development of the artificial intelligence including:**

**(i) a summary of the underlying algorithms, computational modes, and tools that are used within the artificial intelligence; and**

**(ii) the design and training data used to develop the artificial intelligence process;**

**(d) the extent to which the deployment and use of the artificial intelligence requires input of sensitive and personal data, how that data is used and stored, and any control users may have over their data;**

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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(e) an estimate of the number of employees already displaced due to artificial intelligence; and

(f) an estimate of the number of employees expected to be displaced or otherwise affected due to the increased use of artificial intelligence in the workplace.

2. Any impact assessment conducted pursuant to this subdivision shall be submitted to the department at least thirty days prior to the implementation of the artificial intelligence that is the subject of such assessment.

3. For the purposes of this section:

(a) "Employer" means a business that: (i) is resident in the state, (ii) is not a small business, and (iii) employs more than one hundred people.

(b) "Small business" means a business that: (i) is resident in the state, (ii) is independently owned and operated, (iii) is not dominant in its field, and (iv) employs one hundred or less people.

§ 3. The tax law is amended by adding a new section 186-h to read as follows:

§ 186-h. Artificial intelligence surcharge. 1. Imposition of worker displacement surcharge. (a) A surcharge on corporations that terminate the employment or substantially reduce the hours of fifteen or more employees due to any system or process that uses algorithms, computational models, artificial intelligence techniques, robotic hardware, or a combination thereof, to automate, support, or replace human labor is imposed at the rate of two percent of the corporation's business income base.

(b) The surcharge shall be reported and paid to the commissioner no less frequently than on an annual basis. The payments shall be accompanied by a return in the form and containing the information the commissioner may prescribe.

(c) The commissioner, in consultation with the department of labor, may waive the surcharge set forth by paragraph (a) of this subdivision for an eligible corporation. The commissioner, in consultation with the department of labor, shall establish a process whereby eligible corporations may apply to have the surcharge waived. For the purposes of this section, an eligible corporation shall be:

(i) A business that is found by the department of labor to be experiencing or anticipating a labor shortage;

(ii) A business that demonstrates that it requires the use of algorithms, computational models, artificial intelligence techniques, robotic hardware, or a combination thereof, to protect or improve the production of agricultural commodities within the state; or

(iii) A small business, as defined by section one hundred thirty-one of the economic development law, that demonstrates that it requires the use of algorithms, computational models, artificial intelligence techniques, robotic hardware, or a combination thereof, to remain economically viable.

(d) The department of labor shall annually report to the legislature on the number of waivers that it has granted pursuant to paragraph (c) of this subdivision, in the preceding year and the justification for why each waiver was granted. Such report shall be sent to the temporary president of the senate, the minority leader of the senate, the speaker of the assembly, and the minority leader of the assembly and shall be made available to the public on the website of the department.

2. Imposition of data mining surcharge. (a) A surcharge on corporations that use artificial intelligence for data mining is imposed at

the rate of two percent of the corporation's business income base. For the purposes of this subdivision, the term "data mining" shall mean a process involving pattern-based queries, searches, or other analyses of one or more electronic databases.

(b) The surcharge shall be reported and paid to the commissioner no less frequently than on an annual basis. Surcharge payments shall be accompanied by a return in the form and containing the information the commissioner may prescribe.

3. Applicable provisions. (a) Except as otherwise provided in this section, the surcharges imposed under this section shall be administered and collected by the commissioner in a like manner as the taxes imposed by article twenty-eight of this chapter. All the provisions of article twenty-eight of this chapter, including the provisions relating to definitions, exemptions, returns, personal liability for the tax, collection of tax from the customer, payment of tax, and the administration of the taxes imposed by such article, shall apply to the surcharges imposed under the authority of this section so far as those provisions can be made applicable to the surcharges imposed by this section, with such modifications as may be necessary in order to adapt the language of those provisions to the surcharges imposed by this section. Those provisions shall apply with the same force and effect as if the language of those provisions had been set forth in full in this section, except to the extent that any of those provisions is either inconsistent with a provision of this section or is not relevant to the surcharge imposed by this section. For purposes of this section, any reference in this chapter to a tax or the taxes imposed by article twenty-eight of this chapter shall be deemed also to refer to the surcharges imposed by this section unless a different meaning is clearly required.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision:

(1) the exemptions provided for in section eleven hundred sixteen of this chapter, other than the exemptions in paragraphs one, two and three of subdivision (a) of such section, shall not apply to the surcharges imposed by this section.

(2) the credit provided in subdivision (f) of section eleven hundred thirty-seven of this chapter shall not apply to this section.

4. Deposits of surcharge monies collected and received. Notwithstanding any provision of law to the contrary, all surcharge monies collected and received by the commissioner under this section shall be deposited daily to the credit of the comptroller with those responsible banks, banking houses or trust companies the comptroller may designate. Those deposits shall be kept separate and apart from all other monies in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. All surcharge monies collected and received under this section shall be paid to the department of labor to be used, in a manner prescribed by the commissioner of the department of labor, for worker retraining programs administered by the department, workforce development programs administered by the department or to be paid to the unemployment insurance fund.

§ 4. This act shall take effect immediately; provided, however, that section three of this act shall take effect January 1, 2025.